
(2002) 02 MP CK 0104
In the Madhya Pradesh High Court
Case No : M.A. No. 1706 of 1998

Union of India (UOI)

APPELLANT

Vs

Anil Kumar Gupta

RESPONDENT

Date of Decision : 21-02-2002

Acts Referred:

Railways Accidents and Untoward Incidents (Compensation) Rules, 1990 — Rule 3, 3(2)
Railways Act, 1989 — Section 124

Citation : (2004) ACJ 1207

Hon'ble Judges : Vijay Kumar Agrawal, J

Bench : Single Bench

Advocate : S.P. Sinha, for the Appellant; Ashok Agrawal, for the Respondent

Judgement

V.K. Agrawal, J.—In this appeal order dated 31.8.1998, in O.A. No. 417 of 1997, by the Railway Claims Tribunal, Bhopal Bench, Bhopal, has been challenged.

2. It appears that claimant-respondent Anil Kumar Gupta with minor Sumit Kumar were travelling by A.P. Express on 16.6.1997. The said train met with an accident resulting in grievous injuries to minor Sumit Kumar. He suffered comminuted depressed fracture on the posterior parieto-occipital bone with some depressed bone fragments extending into the cranium. The minor through his father respondent Anil Kumar Gupta filed a claim petition u/s 125 of the Railways Act, 1989.

3. The learned Tribunal held that the minor had gone into coma. He has been deprived of all his capacity to do any work in future. It was also observed by the learned Tribunal that the injury was not specified in Part II or Part III of the Schedule. Therefore, as per Rule 3 (2) of the Railway Accidents (Compensation) Rules, 1990, compensation of Rs. 2,00,000 deserves to be awarded. The learned Tribunal further awarded interest at the rate of 12 per cent per annum on the above amount from the date of petition, till date of payment.

4. Learned counsel for the appellant submitted that the railway authorities could

not pay compensation as the injury was not specified in Part II or Part III of the Schedule to the Railway Accidents (Compensation) Rules, 1990. Hence, they were not at fault if the respondent was required to file the petition. It was, therefore, urged that the Tribunal erred in awarding interest at the rate of 12 per cent per annum payable from the date of petition. It was urged that interest deserves to be reduced. Learned counsel for the appellant also submitted that ex gratia payment of Rs. 5,000 also deserves to be adjusted from the amount of compensation awarded.

5. Considering the contentions and also considering the fact that the current rate of interest by the nationalised banks has been reduced," it appears just and proper to award interest at the rate of 10 per cent per annum on the amount of compensation. However, deduction of ex gratia payment made to the claimant cannot be from the amount of award as above, because it was paid without any precondition, before the petition for claim was filed.

6. Accordingly, the appeal is partly allowed. The appellant shall pay to the respondent an amount of Rs. 2,00,000 (rupees two lakh) as compensation as directed by the Tribunal. Appellant shall also be liable to pay interest at the rate of 10 per cent per annum from the date of petition till its payment instead of at the rate of 12 per cent per annum, as directed by the Tribunal. The amount already paid towards the impugned judgment shall be liable to be adjusted from the amount hereby granted.